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OBSTACLES FACED BY DEAF PEOPLE IN THE CRIMINAL JUSTICE SYSTEM

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EAFF PEOPLE, especially those who are not well educated, are at risk for serious injustices when they enter the criminal justice system. The present study describes these risks at all stages of the legal process, including arrest, trial, probation, prison, and parole. These dangers are greatest for those who are poorly educated, read at a fourth-grade level or lower, have poor communication skills (American Sign Language and English), and lack awareness of their legal rights. *Primitive personality disorder* (PPD) is the term mental health professionals use to describe this set of characteristics. The risks that the segment of the deaf population with PPD faces when its members run afoul of the law are described, a case history provided, and some relevant legal and interpreting issues are discussed. A case is made for applying the concept of linguistic incompetence to deaf individuals with PPD.

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Deaf people in America and throughout the world face serious barriers when they enter the criminal justice system. For a deaf person, injustices can occur at every step of the legal process, beginning with arrest and throughout the consequent sequence of interrogations, courtroom hearings, trials, acquittal, probation, or incarceration, and parole. These injustices result primarily from a lack of understanding of deaf people on the part of professionals working in the legal system. Indifference and hostility toward deaf people can also influence the process. However, it is the failure of criminal justice professionals to understand the linguistic, educational, and cultural characteristics of the deaf population

that plays the greater role in perpetuating injustices (Hoopes, 2002).

The present study addresses the problems deaf people may encounter when interacting with the criminal justice system, starting at the time of arrest and continuing through the entire legal process.

The Case of Mr. J.

Mr. J., an African American in early middle age, was deafened by meningitis at age 3 years. He entered a residential school for deaf children in Alabama at age 6, where he attended school until his graduation at 21. He was a below-average-to-average student and was reading at a third-grade level at the time of his graduation. During his school years,

Mr. J. was a star athlete in football, basketball, and track.

While in school, Mr. J. was not a disciplinary problem and was well liked by his teachers and peers. He had high aspirations upon graduation and began attending a local community college. Disadvantaged by his third-grade reading level, Mr. J. dropped out after several semesters of poor grades.

Mr. J. was able to find employment in a number of jobs, such as working on an assembly line, as a stock clerk, and as a loader for a shipping business. These were all positions requiring little or no communication. In addition to weak reading skills, Mr. J. had unintelligible speech, and he was a poor speechreader. Although he was qualified to receive Supplemental Security Income, he never applied for or received SSI because he preferred to work and support his family.

By 1997, Mr. J. was 33 years old, married, and had two young children, both of whom were hearing and attended elementary school. One evening at dinnertime, he pulled into a Quincy's Restaurant parking lot with his children. As he and the children got out of the car, his daughter opened the car door wide, and it nicked the Corvette parked next to it, leaving a small ding in the fender.

Being deaf, Mr. J. did not hear the door brush against the Corvette. The car's owner, however, had witnessed the incident from inside the restaurant. He approached Mr. J., who, by then, was in the buffet line helping his two children get their food. Mr. J. could not understand the Corvette owner, and he gestured to indicate that he was deaf. Deaf people have such encounters frequently, so Mr. J. assumed that the Corvette owner was simply trying to make conversation or ask for directions, and he proceeded to the table with his children.

As Mr. J. and his family started eating, the Corvette owner and a policewoman approached their table. Mr. J. was puzzled. He had no idea what they wanted from him, nor did they tell him. He did not want to leave his children alone, and he wanted to finish his meal. The policewoman wrote a note that said, "Come outside with me." She was getting red in the face and appeared to be angry.

Mr. J. asked for a paper and pencil so that he could write the policewoman a note. Finally, she thrust the paper and pencil at him. By then, Mr. J. sensed from her anger that he was in some kind of trouble. He wrote, "I am deaf. I need an interpreter." Deaf people are taught that they have a legal right to an interpreter when dealing with the police. This right is guaranteed to them by the Americans With Disabilities Act of 1990 (ADA).

Mr. J. requested an interpreter not only because he knew his rights, but because he knew that he could not understand the policewoman's speech. If they wrote notes, he feared that she would use many words that he could not read or understand. He was also aware that hearing people could not understand his speech. Therefore, he again gestured to the policewoman that he was deaf and could not understand her.

When Mr. J. asked again for the paper and pencil, the policewoman said "No!" and became even angrier. That left him helpless—unable to understand why she was harassing him or what he might have done. In the meantime, one of the waitresses who knew Mr. J. and his family called his wife, who was hearing. The waitress asked her to come and interpret for Mr. J. The waitress then told the policewoman that an interpreter was on the way. The policewoman responded by yelling at Mr. J. and refusing to let him write any more. She also refused

to wait for his wife to arrive and interpret for him. The policewoman then left to call for backup.

When she returned, there was a male officer with her. He immediately started talking to Mr. J., despite the fact that he had been told that Mr. J. was deaf. Once again, Mr. J. gestured that he was deaf and could not understand. He asked again for the paper and pencil. The policeman shook his head, and started to yank the 6-ft., 220-lb. man out of the booth. By then, both of Mr. J.'s children were terrified and crying. Mr. J. reacted by pulling his arms back and away as if he were being held up.

The officer tried again to pull Mr. J. up from the booth, which scared the children even more. By that time, additional police officers had arrived and they all jumped on Mr. J., smashing his head onto the table. He was then thrown to the floor on top of broken glass and dishes, with one of the officers' knees in his back as they proceeded to shackle him. In the scuffle, Mr. J. was forced up against a salad bar in a partially seated position, with one officer's forearm against his neck and the other arm pushing it into Mr. J.'s throat, choking him. His eyes bulged and his tongue protruded as he gasped for air. At no time during this struggle did Mr. J. attempt to fight back.

At this point, Mr. J. was in acute pain and extremely frightened. His children were screaming even louder, horrified by what was happening to their father. A couple that had been sitting next to the family took the children and tried to help calm them down.

Mr. J. was hauled out of the restaurant shackled at the ankles with his hands cuffed behind him. This made it impossible for him to communicate using sign language. At this time, Mr. J.'s wife arrived to interpret. If the police had waited 5 minutes for the interpreter, or granted Mr. J. the use of a

paper and pencil, the entire episode could have been averted. Instead, the police refused to uncuff Mr. J.'s hands from behind his back so that he could communicate with his wife/interpreter. Had the police cuffed his hands in front of his body, that would have enabled him to use sign language and explain himself.

With the exception of the Corvette owner, the other patrons in the restaurant were horrified. Meanwhile, with no explanation, the police pushed Mr. J. headlong into the back of a police car. Then, an ambulance arrived and he was transferred from the car to the ambulance and taken to jail. His hands were never freed from the cuffs so that he could explain his injuries, and he received no treatment during the ambulance ride. Instead of a hospital, he was transported directly to jail.

Some members of Mr. J.'s church accompanied his wife to the jail to find out about his injuries. They were permitted a brief visit and then ordered to leave and allowed no further communication with him. At this point, Mr. J. was still unaware of why he was in jail. At 2 or 3 a.m., he was finally taken to a hospital to receive treatment for his injuries, but only because another inmate banged on the cell bars and told the officers that Mr. J. was in pain and needed medical help.

After hasty first-aid treatment at the hospital (no X-rays were taken), Mr. J. was returned to the jail and held there until his hearing the next morning. In court, Mr. J. had no interpreter and still did not know why he had been incarcerated. He had committed no crime to begin with, nor had he committed one when he attempted to free himself from the officers' attack.

Even though Mr. J. went on to win a sizable settlement from the municipal government of Dothan, AL, where the incident occurred, both he and his children have been permanently

scarred psychologically. They will always distrust police officers. Indeed, Mr. J. is so afraid of further persecution by the Dothan police that he has moved away, even though he grew up in Dothan and most of his family still lives there.

Approximately 40% of deaf individuals experience communication barriers similar to—though less extreme than—those experienced by Mr. J. His case illustrates how a combination of communication barriers and a lack of knowledge of deaf people on the part of law enforcement personnel can have tragic consequences. Mr. J.'s case was not an isolated incident. There are many others in which innocent deaf people have experienced even greater injustices. For example, some have been killed by law enforcement officers who did not recognize the communication barrier or know how to respond appropriately to a deaf person (Escobar, 1991).

Conversely, there are situations in which deaf people escape punishment for misdemeanor offenses because the police feel sorry for them, or because the police do not want to take the time to locate an interpreter or write notes. This lenient approach to deaf suspects occurs much more frequently with misdemeanor offenses

than when a felony is suspected or has been committed.

Primitive Personality Disorder

In the courtroom during a hearing or a trial, the segment of the deaf population with limited communication ability faces unique barriers. Unfortunately, it is this same part of the deaf population that is most at risk for violating the law and for experiencing injustice within the legal system. Courtroom situations involving such individuals are best understood by first reviewing a condition called *primitive personality disorder* (PPD).

PPD refers to that segment of the deaf population that is incompetent, or minimally competent, in terms of understanding the legal process. The term was introduced by psychiatrists John D. Rainer, Kenneth Z. Altschuler, and Franz J. Kallmann (1963). Almost simultaneously, a Norwegian psychiatrist, Terje Basilier (1964), described the same condition in Norwegian deaf people. He called it *surdophrenia*. Subsequently, this condition has come to be recognized by mental health professionals and educators who are knowledgeable about deaf people. Diagnostic criteria are listed in Table 1.

Table 1
Diagnostic Criteria for Primitive Personality Disorder (Surdophrenia)

At least three of five conditions must be present:

1. little or no knowledge of sign language, the primary spoken language in local use, or some other spoken language
2. as a corollary to condition 1, functional illiteracy; that is, a reading grade level of 2.9 or lower as measured by a standardized educational achievement test, preferably the appropriate battery of the Stanford Achievement Test
3. a history of little or no formal education
4. pervasive cognitive deprivation involving little or no knowledge of such basics as what the U.S. Constitution or Social Security is, or how to make change, pay taxes, follow recipes, plan a budget, or function on a job
5. a performance IQ of 70 or higher

Source. Vernon & Rich (1997).

It is estimated that 20%–30% of deaf people have PPD (Vernon & Miller, 2001). Although Mr. J.'s condition was a step above that of people with PPD, he still shared many of the educational and social problems they experience. Deaf individuals with PPD are at greater risk of arrest and incarceration, and are particularly vulnerable to injustices at the hands of the legal system (Miller, 2003). They have little or no understanding of how criminal justice is administered or of their legal rights within the system. Prison time is especially difficult and dangerous for someone who is deaf, especially if that person is naive and poorly educated (Miller, 2001).

Deaf people with PPD are usually marginalized. Because of their limited communication skills and inadequate socialization, typically they do not have status or position in either the hearing or Deaf community. As a result, their day-to-day lives are likely to be fraught with frustration, rejection, and hardship. This is particularly true when they interact with the police, courts, and prisons.

The Criminal Justice Process The Arrest

The first point of contact with the criminal justice system is the arrest. For the 20%–30% of deaf people with PPD, the arrest presents a communication barrier that can result in a loss of civil rights, especially when they do not receive accommodations such as a qualified interpreter. In the United States, at the time of arrest and throughout the trial process, persons suspected of having committed a crime have the right, by virtue of the Fifth Amendment to the U.S. Constitution, to avoid self-incrimination. This right is protected by the *Miranda* warning (*Miranda v. Arizona*, 1966) and other related suspects' rights instruments, including the search and

seizure waiver, agreement to take a polygraph test, trespassing notification warning, consent form for obtaining a blood alcohol sample, and release from liability for services rendered.

In order to understand the most basic of these instruments, at least a sixth-grade reading level is required. For some of them, a reading level as high as 12th grade may be necessary. (See Table 2; see also below, under the heading "In the Courtroom," for further discussion of reading comprehension and legal proceedings.) Deaf people with PPD cannot read and comprehend these legal tools. There is strong evidence that many of them cannot be interpreted adequately without fingerspelling or specific tutoring in American Sign Language (ASL) as to their meaning. Fingerspelling of terms requiring a sixth-grade reading level is of no help to a deaf person with PPD. Even when a deaf person is tutored or provided an interpreter (or even both), in many cases this will not be sufficient to enable the person to understand these instruments (Vernon & Miller, 2001). Additionally, deaf people with PPD cannot speechread well enough to understand such materials when they are read to them.

If deaf people with PPD refuse to sign these forms, arrangements should be made to evaluate and accommodate them. However, deaf people with PPD are often asked to sign forms that they do not understand. One of their coping mechanisms in situations in which they do not fully understand what is happening is to comply with the authority figure. They will smile, nod in agreement, and sign anything put before them (Vernon, Raifman, Greenberg, & Montiero, 2001). They frequently assume that they will be released if they sign the paper. Thus, most of them sign away their basic right against self-incrimination at the time of arrest. This action can have a profoundly negative effect during a trial because it makes a substantial amount of evidence available that would otherwise never have been admissible (Vernon & Miller, 2001).

The argument has been made that there are also many hearing people who cannot read legal documents such as the *Miranda* waiver. This is not in dispute. However, hearing individuals can be given the information orally in English, or in any number of other languages. Unlike English and most other spoken languages, ASL has

Table 2
Transcript Readability Levels for Eight Legal Proceedings

Type of proceeding	Average readability level (by grade) ^a
Plea and sentencing hearing	9.2
Motion for suppression hearing	8.4
Jury trial	7.4
Volume I	6.6
Volume II	7.9
Jury trial	7.8
Jury trial	5.7
Jury trial	6.1
<i>M</i> = 7.4	
Source: Vernon & Miller, 2001.	
^a Average readability levels were based on eight different readability calculations: the Dale-Chall formula, the Flesch reading ease formula, the Flesch grade-level formula, the FOG formula, the Powers-Summer-Keurl formula, the SMOG grade-level formula, the FORCAST grade-level formula, and the Fry formula.	

no written form and is extremely constricted in its vocabulary and uniquely different in syntax from English and other oral languages. This is because ASL was suppressed for many years by the American educational system and is still forbidden in some schools and classes for deaf youth. Interpreters who are not specifically trained to work in legal settings are likely to fingerspell more of the specialized vocabulary terms. Because the deaf person with PPD reads at or below the second-grade level, this is a totally ineffective format.

The result of these problems of communication and the lack of sophistication regarding the legal system is that deaf suspects are easily coerced into a confession, plea bargain, or waiver of their rights. For example, a deaf suspect with PPD may sign a waiver giving the police the right to administer a polygraph (lie detector) test. Comprehension of the waiver requires a 10th-grade reading level. Furthermore, in many instances the waiver cannot be fully interpreted in a reasonable amount of time, if at all.

When administering the polygraph, detectives are permitted by law to lie. Therefore, when they ask a deaf person if he stole a car and he responds, "No, I didn't," detectives may tell him that the machine shows that he is lying even when this is not what it indicates. The investigator will tell him how much better things will go if he simply tells the truth. Terrified and thinking that the police want to help him, the deaf person may confess, although he is innocent of the crime. Obviously, not all detectives behave in this manner, but some do. That is the reason why protections such as the *Miranda* waiver are in place.

Although the deaf person with PPD who is arrested and interrogated without an attorney or legal interpreter present is extremely vulnerable, there

are measures that can be taken to ensure that the individual receives due process. For example, the entire interrogation should be videotaped. The video should include the signing of both the interpreter and the deaf suspect. For a deaf suspect, videotape is the equivalent of audiotape for a hearing suspect. Videotape not only provides a record of what the police and suspect said, it is critical in evaluating whether the interpreter transmitted the information accurately and in a way that was understandable to the deaf client. When police interviews are conducted without being videotaped, everything that the deaf person signs is hearsay evidence; that is, it is what the interpreter says the deaf person said, not necessarily what was actually said. There have been several cases in which videotape was successfully used as evidence of an inadequate interpretation. In five such cases, it was proven that the *Miranda* warning was not provided in a format the deaf suspects could understand, sparing these suspects a possible first-degree murder conviction (see Table 3).

These are only some of the barriers deaf persons with PPD face during the arrest process.

In the Courtroom

In court, the barriers experienced by deaf persons with PPD are even greater than at the time of arrest. Representative samples of transcripts have been examined from plea and sentencing hearings, suppression hearings, and jury trials (Vernon & Miller, 2001). Because plea and sentencing hearings resolve a high percentage of criminal cases, these hearings impose critical decisions on defendants.

The average reading grade level required to understand plea and sentencing hearings, suppression hearings, and jury trials is 7.4 (see Table 2). This figure is derived from application

of eight widely used readability formulas (listed in Table 2) to the examined transcripts referenced by Vernon and Miller (2001), and computation of the average reading level required to understand each transcript. Many terms used in legal proceedings do not have equivalent signs. If there is no sign for a concise concept, it can be rendered in fingerspelling (a visual representation of English) or explained in detail by the interpreter, a technique called *expansion* in the field of interpreting. A deaf person who has PPD and does not read above the second-grade level will obviously not understand the fingerspelling of such complex terms. In this situation, the presence of an interpreter qualified to do legal interpreting (i.e., one who is familiar with legal terminology and expansion) is essential. Finally, providing expansion is time consuming for the interpreter and the court.

In summary, a large percentage of deaf people who face criminal charges are convicted and sentenced without understanding the legal proceedings that led to their conviction. There have been three studies with tremendous bearing on deaf people and criminal trials and pleadings. They all have to do with the rate of speech as compared to the rate of signing.

In one study (Steinberg, Lipton, Eckhardt, Goldstein, & Sullivan, 1998), a relatively simple psychological questionnaire that took 4 hours to administer orally took 16 hours in sign language. The sample was a group of deaf people who were fluent in sign language, 41% of whom had some postsecondary education. Despite the fact that this was a simple questionnaire, the researchers did not even attempt to translate it for use with less educated deaf people because doing so was deemed not feasible.

Another questionnaire-like psychological test, the Minnesota Multiphasic

Table 3
Miranda Cases With Deaf Defendants

<p><i>State of Wisconsin v. Robert Rewolinski</i> (no. 87-CR155)</p> <p>Initial venue: Pierce County Circuit Court, 1987</p> <p>Charge: first-degree intentional homicide</p>	<p>Motion to suppress evidence from the defendant based on insufficient understanding of <i>Miranda</i> was granted in the circuit court for Pierce County. At issue was the lack of accuracy in the interpretation. The decision was not appealed. However, the defense did appeal to the Wisconsin Court of Appeals on the grounds that the trial court had not required the trial proceedings to be taped for later review and that it allowed into evidence the transcripts of TTY conversations. The decision of the trial court to allow the TTY conversations and not to require the proceedings to be taped was upheld. The defense then appealed to the Wisconsin Supreme Court; again the decisions of the trial court related to the procedural matters was upheld.</p>
<p><i>State of Minnesota v. Gary Lester Goehring</i> (no. Kx-92-2502)</p> <p>Initial venue: Anoka County District Court, 1992</p> <p>Charge: first-degree murder</p>	<p>Motion to suppress the confession of the defendant was granted in the district court for Anoka County. At issue was the defendant's lack of understanding of the <i>Miranda</i> warning and therefore the lack of a knowledgeable waiver of rights. This decision of the trial court was not appealed. Later, the defendant pled guilty to second-degree murder. There was an appeal related to the duration of the sentence, but not on the grounds of interpreter issues.</p>
<p><i>State of Wisconsin v. George W. Hindsley</i> (no. 99-1374-CR)</p> <p>Initial venue: Pierce County Circuit Court, 1999</p> <p>Charge: first-degree intentional homicide</p>	<p>Motions to withdraw guilty plea and to suppress evidence from the defendant based on insufficient understanding of the <i>Miranda</i> waiver were granted by the trial court. At issue was the fact that the interpreter used transliteration rather than interpretation. The defendant's language was established as being American Sign Language. The state appealed to the Wisconsin Court of Appeals on the grounds that the trial court erred in allowing the motion to suppress the defendant's statement to the police. The court of appeals upheld the trial court's decision on May 11, 2000.</p>
<p><i>State of Tennessee v. Chester Lee Jenkins</i> (no. C-12430, 31)</p> <p>Initial venue: Blount County Circuit Court, 2001</p> <p>Charge: second-degree murder</p>	<p>Motion to suppress the confession of the defendant was granted in the circuit court for Blount County. The two issues that emerged were whether the defendant had adequate language competence to understand the <i>Miranda</i> warning as it was interpreted, and whether the interpreter had executed an accurate interpretation. The trial court made a negative determination on both issues. The decision of the trial court was appealed, but was upheld by the Tennessee Court of Criminal Appeals on March 8, 2002</p>

Personality Inventory (MMPI), was translated into sign language and put on videotape (Brauer, 1993). The MMPI is written at a sixth-grade reading level. The researcher, a deaf psychologist, chose to sample a deaf group made up of 75% graduate students and 25% deaf professionals working at Gallaudet University. Additionally, 28% of the sample had deaf parents, a situation that greatly enhances language development because sign language modeling occurs from birth (Vernon & Koh, 1971).

Even with this highly educated group, which could be expected to comprehend fingerspelling of legal terms, it took 2 hours for an interpreter to administer the MMPI. This is in contrast to the 42 minutes required to present it orally.

Another researcher used a different approach to assess the same basic issue (Ressler, 1999). Ressler made a video of a person giving a speech. The speaker used 949 words and spoke at a rate of 168 words per minute. The interpreter was nationally certified and

had 13 years' experience. Doing a direct interpretation, she used only 611 signs and signed at a rate of 107 words per minute. (In an intermediary interpretation, 473 signs were used, at a rate of 83 words per minute.) This is not to disparage interpreters, who are charged with the difficult task of providing an equivalent meaning in a short period of time. In platform settings in which the interpreter does not have time to provide as much expansion, portions of the message are lost or simply not understood because the

cultural knowledge and background for various terms are not present in the average deaf recipient of the message. As typified by the expression “lost in translation,” this phenomenon is generally true of translations into any language, including spoken languages.

All three comparative studies of speech and signing rates were conducted by experienced, published researchers. Their work demonstrates that it takes about 4 times longer to provide an accurate interpretation to sophisticated and educated deaf people who are fluent in sign language than it does to transmit the information in spoken English. If the signer tries to keep pace with an oral presentation, critical information will inevitably be left out. More important, when the interpreter is not allowed the time to do an expansion or does not know how to do one, the information is simply incomprehensible to the deaf person.

Because even well-educated deaf people require so much time to receive information translated from English to sign language, it stands to reason that deaf people with PPD in a legal situation are going to understand almost nothing. These individuals will be unable to participate in their own defense and, in some cases, will not even be able to understand the charges against them. The legal term for this condition is *linguistic incompetence* (Vernon & Miller, 2001). When it is present in a deaf defendant, that individual should be declared incompetent to stand trial, in the same manner that defendants who are legally insane or mentally retarded are declared incompetent. As such, the defendant should not be tried until made competent. This occurs in very few cases, and poses some difficult issues. For example, in several homicide cases involving deaf defendants, the defendants had to be released de-

spite strong evidence of their guilt. The reason was that they were linguistically incompetent (Seaborn, 2004).

Incarceration

Following court, the next step in the legal process is incarceration, probation, or freedom. Deaf people are overrepresented in jails and prisons (Miller, 2001; Zingeser, 1999). One reason is undoubtedly that many deaf people are unable to understand the process that led to their incarceration, nor are they able to participate fully in their own defense. For instance, one fourth do not have an interpreter during legal procedures (Miller, 2001; Miller & Vernon, 2002). In some cases, they do not even understand the charges against them, to which they generally plead guilty.

Since the passage of ADA in 1990, prisons, jails, and other state and federal institutions are required to provide deaf people equal access to communication. However, for many reasons this has not happened, even in the more ADA-compliant prisons (Miller, 2001). This problem is compounded because in a prison setting, even educated and assertive deaf inmates are in no position to demand their ADA rights.

Incarceration is particularly difficult for deaf offenders because prisons are not designed to accommodate hearing loss (Gibbs & Ackerman, 1999). Officers give their orders orally, and chow time, the count, and rack up are indicated through spoken language or by other auditory signals, such as buzzers or the rolling of the doors. If prisoners do not respond quickly to these orders and cues, they are disciplined and punished (Miller, 2001). Rehabilitation programs and therapies that are provided for substance abusers and sex offenders are not available to deaf offenders in many facilities because interpreters

are not supplied or cannot be obtained (Miller, 2001; Tucker, 1988).

The two most serious problems deaf inmates face are physical danger and isolation. Deaf prisoners are vulnerable to rape and other forms of assault because they cannot hear what transpires around them and identify potentially dangerous interactions (Ezekiel, 1994). Language barriers make it more difficult for them to make friends and form alliances for mutual protection.

Isolation occurs when the deaf inmate lacks the communication skills to interact adequately with hearing inmates. This is the case with 90% of deaf prison inmates (Miller, 2001). Most deaf inmates are alone in prison, without any other deaf inmates or signers around. This serves to further alienate them from treatment and socialization, thus having the opposite effect of rehabilitation. They may become involved in altercations over the accessibility of television, as hearing prisoners usually object to turning on captioning.

In some cases, those inmates living around the deaf inmate begin to pick up sign language. It is tempting for officers to use these inmates as interpreters for disciplinary hearings, for example. However, it is important to note that a disciplinary hearing is a legal proceeding held in a prison to address an alleged violation of the law or prison rules. Hearing inmates with beginning sign language ability may provide inaccurate or false information, either because of a lack of signing skills or an interest in benefiting personally. They may also gain access to confidential information during a proceeding (Miller, 2001).

In prison, information is a commodity. In at least one documented case, a deaf inmate was put in physical danger when a fellow inmate “interpreted,” and later leaked information

about the deaf man's crime to the public (Miller, 2001). Thus, important interpreting ethics such as impartiality, accuracy, and confidentiality may be breached when hearing inmates are used as interpreters for deaf inmates (Miller, 2003). These are only a few of the problems prison life poses to deaf inmates.

Parole and Probation

There is almost no literature available on what happens to deaf persons during parole and probation. However, this excerpt from *Deaf Culture Behind Bars: Signs and Stories of a Texas Population* (Miller, 2003) provides an example:

Leroy: I did not follow the law. One time they put a metal bracelet (electric monitoring device) on my leg, but I did not know what it was for. I took my brother's truck and went out driving. The police came and arrested me. So I had to go back to prison. (pp. 4-5)

Few, if any, states have parole or probation officers who are able to communicate skillfully in ASL. In addition, most such officers have heavy case-loads. Because of the complex conditions and requirements associated with parole and probation, deaf individuals on parole and probation often violate the rules unknowingly.

Parole and probation violations are serious because they can result in years of additional imprisonment, lost employment, and family breakups, in addition to extra costs to taxpayers. Not including building and land expenses, keeping one person in prison costs \$26,000 a year (Stephan, 2004). Incarceration also results in the loss of family income, and consequently can force an inmate's dependents into the welfare system. Thus, probation and parole is an area in which research

and the development of recommendations for improvements are critical.

Conclusion

In the United States there are a number of laws, including ADA, that protect the rights of persons with hearing loss who encounter the criminal justice system. However, in practice these laws are often misunderstood or ignored by professionals in the system, largely because of a lack of knowledge of the communication issues facing persons with hearing loss. This is especially true of the segment of the deaf population most likely to become involved with the criminal justice system: those who are uneducated, poor, and unable to advocate for themselves. Many of them suffer from PPD.

Several approaches can be applied to improve the situation. A number of carefully chosen test cases could be appealed legally to the U.S. Supreme Court, if necessary. These should be test cases that clearly demonstrate instances in which guaranteed ADA protections were not enforced. Costly penalties for violations should be levied or consent decrees correcting the problems instituted legally (Katz, Vernon, Penn, & Gillice, 1992). Linguistic incompetence needs to be clearly defined, and adjustments made in the law to accommodate the communication needs of deaf individuals with PPD. Finally, the difficulties associated with providing sign language interpretation to deaf individuals with PPD must be recognized and addressed by the legal system.

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